

THE CHAIRMAN: Any delegate desire to speak in favor of this amendment?

Delegate Macdonald.

DELEGATE MACDONALD: I would like to speak in favor of the amendment, but before that, could I ask the Committee Chairman a question?

THE CHAIRMAN: His time has expired. You may speak and if he has the right to take the floor again, you may address a question to him.

DELEGATE MACDONALD: Fellow delegates, I agree with Delegate Gilchrist in everything he has said in regard to this amendment.

This changes the law of condemnation appreciably, substantially. There is no telling how much in the way of damage to private property will be involved where there is no taking and even if there is a re-zoning of property next door, and that is effected by a taking.

I think that before we should change the rules, we should find out from the State Roads Commission how much this will cost the State of Maryland. I do not know, but my guess is that it will be hundreds of thousands of dollars.

I am against the Majority Report and for the amendment.

THE CHAIRMAN: Any other delegate desire to speak in opposition to the amendment?

Delegate Burgess.

DELEGATE BURGESS: May I take issue to the statements made by Delegates Gilchrist and Macdonald?

I understand Mr. Macdonald does not practice criminal law. I do not know about condemnation law. Let me read to you the most recent case in Illinois. *Belmar Drive-In Theater v. Illinois*. This is some of the dicta they are spelling out in their opinion.

They say:

"It has long been established that there are certain injuries necessarily incident to the ownership of property which directly impair the value of private property and for which the law does not and never has afforded any relief, examples being," and note this, ladies and gentlemen, "the depreciation cost by the building of fire houses, police stations, hospitals, cemeteries and the like in close proximity to private property."

That is a narrow construction.

In zoning, we have reference to private enterprise building certain things which might be objectionable. This is where zoning and building restrictions come in. What we are talking about are the inroads made into property values where people's greatest investment in property is, their homes.

But because we have an archaic principle in our laws we cannot get compensation for our people under the present law.

The states that have this provision are the sister states of Pennsylvania and West Virginia. West Virginia adopted this particular clause in 1872, Illinois in 1870, 1814, I believe it was when Virginia picked it up.

In any event, these states have functioned well and they function properly. I respectfully submit this is not Pandora's box. There is a very narrow construction due here by necessity. But we must be aware of what we are doing to our taxpayers. We are getting to the situation where these people owning property are taxpayers. It seems to me we are worrying about whose ox is getting gored. If it is yours, it is one thing. If it is someone else's, then it is different.

We are trying to make a meaningful document and we have to be aware of this situation. We are not dealing with the situation they dealt with 100 years ago when the original provision not mentioning damages came up.

Our courts and legislature are conservative. A body of law will evolve by necessity. Is it not better to have a body of law evolve which is careful and which is conservative and will give justice to these people who are hurt in an area where they know not how to defend themselves, where their adversary is the State of Maryland?

In regard to interstate highway situations, 90 percent of the funds involved come from the federal government. Bear in mind that the real impact will not be in litigation, initially, but ultimately in the planning of these roads. The planners will have to be aware of what effect this will have on the population in general.

THE CHAIRMAN: Does any other delegate desire to speak in favor of the amendment?

Delegate Carson?

DELEGATE CARSON: Mr. Chairman and ladies and gentlemen, I entirely agree